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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/516,866	12/03/2004	Andreas Witzel	P17157-US1	2414
27045	7590	12/09/2009	EXAMINER	
ERICSSON INC. 6300 LEGACY DRIVE M/S EVR 1-C-11 PLANO, TX 75024			KARIKARI, KWASI	
			ART UNIT	PAPER NUMBER
			2617	
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			12/09/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/516,866

Applicant(s)

WITZEL ET AL.

Examiner

KWASI KARIKARI

Art Unit

2617

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17, 19 and 20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 9-11, 19 and 20 is/are rejected.
- 7) ☒ Claim(s) 5-8 and 12-17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed on 08/31/2009 have been fully considered but they are not persuasive.

a. In the remarks, the Applicant argues that the combination of Ejzak fails to disclose the claimed limitations;

["determining, by protocol of the service request, whether the switching node will operate as a layered architectural environment switching node or a non-layered architectural environment switching node"] (see claims 1 and 19).

The Examiner, however respectfully disagrees with such an assertion.

In contrast to Applicant's assertion, Ejzak is understood to teach that the system determines if the serving system can process the mobile unit as MSC or iMSC server based on the capability of system (see Par. [0012, 0095-97] and Fig. 4, steps 403 and 404; whereby the capability of the system is being associated with the "protocol of the service request"/ switching rules).

b. Furthermore, the Applicant argues that "Ejzak reference does not disclose or teach a non-layered environment as in the Applicant's invention where a single node handles all traffic ... without an added MGW" (see Remarks, page 9 of 11); however the Examiner noticed that the claimed features upon which the Applicant relies are not recited in the rejected claim(s). Although the claims are interpreted in light of the

specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Ejzak, however discloses a the "non-layered architectural environment" such as, WCDMA/UMTS the includes circuit switch domain (see Pars. 0020, 0022 and 0046).

The Examiner, therefore, maintains that Ejzak's reference, as shown above, teaches the Applicant's argued claimed limitations.

c. All the dependent claims are also being rejected by virtue of their dependency on their respective dependent claims.

Based on the above response/clarifications the Office Action is being maintained and made Final as shown below.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 1-4, 9-11 and 19-20 are rejected under U.S.C. 102(e) as being anticipated by Ejzak (20030027569 A1), (hereinafter Ejzak).

Regarding claim 1, Ejzak discloses a method for operating a switching node in communications network (= determination of serving system to process mobile unit as an MSC or iMSC, see [0095-98 and 0101]), the switching node having a connection for signaling data and additional user data connections, the communications network comprising both a layered architectural environment (e.g., GGM/EDGE system) and a non-layered architectural environment (e.g., WCDMA/UMTS) the method comprising the steps of

receiving a communication service request (= UE 111 initiates mobile call, see Fig. 5 steps 501 and 502; IMS 141 supports services for mobile units using either circuit-switched or IP Multimedia call control procedures, see Par. 0008),

determining, by protocol of the service request, whether the switching node will operate as a layered architectural environment switching node or a non-layered architectural environment switching node (= the system determines if the serving system can process the mobile unit as MSC or iMSC server based on the capability of system, see Par. [0012, 0095-97] and Fig. 4, steps 403 and 404; whereby the capability of the system is being associated with the "protocol of the service request"/ switching rules),

the layered architectural environment providing a user plane layer for user data and a control plane layer for signaling data (= e.g., GGM/EDGE system; and IP system, see Par. 0020, 0022 and 0025) and

the non-layered architectural environment (= e.g., WCDMA/UMTS) providing a layer for both the user plane and the control plane (= circuit switch domain, see Pars. 0020, 0022 and 0046); and

processing the requested communications service according to the determined operating mode of the switching node (see Pars. [0013, 0052-54, 0079 and 0096-98]).

Regarding claim 2, as recited in claim 1, Ejzak discloses the method, wherein the communications service request is a call set-up request (see Pars. [0104-07]).

Regarding claim 3, as recited in claim 1, Ejzak discloses the method, wherein the operation mode is determined according to at least one predetermined rule, which is set-up according to available network capabilities (= SIP for IMS internet-like functionality and services, see Pars. [0020-21 and 0028 and 0096-97], whereby the protocol/network capability is associated with "predetermined rule").

Regarding claim 4, as recited in claim 1, Ejzak discloses the method, wherein a plurality of incoming routes (signaling link and signaling and data links) from an access network (RAN 121) to the switching node are provided, at least one predetermined rule comprises an assignment of a dedicated incoming route (signaling link) to an operation mode of the switching node, and wherein the step of determining the operation mode comprises a determination of an incoming route of the communication service request

and a comparison of the determined incoming route against at least one predetermined rule (see Par. [0034-35]).

Regarding claim 9, as recited in claim 1, Ejzak discloses the method, wherein the communication service request requests a subscriber terminal terminating communications service, wherein at least one predetermined rule comprises an assignment of an access technology available to the subscriber terminal to a dedicated operation mode, and wherein the step of determining the operation mode comprises the determination of the access technology available to the terminating subscriber terminal, and the determined operation mode depends on the determined access technology (see Pars. [CDMA and 3GPP, see [0020 and 0080]).

Regarding claim 10, as recited in claim 1, Ejzak discloses the method, wherein the switching node processes the requested communications service as a MSC/VLR, if the determined operation mode indicates that the switching node is part of the non-layered architectural environment (see Par. [0012-13 and 0095-96]).

Regarding claim 11, as recited in claim 1, Ejzak discloses the method, wherein the switching node processes the requested communications service as a MSC-server, if the determined operation mode indicates that the switching node is part of the layered architectural environment (iMSC server, see Pars. [0095-97] and Fig. 4, step 408).

Regarding claim 19, Ejzak discloses a network node, in particular a combined MSC/VLR (tradition MSC) and MSC-server (MSC server or iMSC server interconnected with IMS 141, see Par. [0012-13] and Fig. 1; and the determining of switching/operating between a layered (e.g., GGM/EDGE system) or non-layered environment (e.g., WCDMA/UMTS) based on the determination of the protocol of a request, see Pars. 0004-13, 0020-25; Figs. 4 and 5; steps 401, 403, 408, 409, and 420) comprising:

- an access network interface for the user plane (interface between 111 and RAN 121, see Fig. 1);
- an access network interface for the control plane (see Pars. [0025 and 0030]),
- a core network interface for the user plane (see Pars. [0030-32]),
- a core network interface for the control plane, a media gateway interface (see Pars. [0030, 0036 and 0047-48]),
- a media gateway operation unit connected to the user plane interfaces adapted to provide media gateway functions (see Pars. [0025 and 0030 and 0036]),
- a MSC-server operation unit connected to the control plane interfaces and to the media gateway interface, the MSC-server operation unit adapted to provide Msc-server functionality (MSC server 152, and iMSC 201),
- a selection unit adapted to determine for a communication service request received via any control plane interface according to at least one predetermined rule (call set up, see Figs. 4 and 5 and SIP for IMS internet-like functionality and services, see Pars. [0020-21 and 0028], whereby the protocol is associated with "predetermined rule").

an operation mode for a processing of the requested communication service wherein the determined operation mode indicates whether the network node is operatively for the processing of the requested communication service part of a layered architectural environment providing a user plane layer for user data and a control plane layer for signaling data (determination for the system to serve as traditional MSC or iMSC server, see Par. [0012, 0095-96] and Fig. 4, steps 403 and 404), or operatively part of a non-layered architectural environment not providing a split between a user plane and a control plane and a processor connected to the interfaces and units of the switching node, said processor being adapted to process a requested communications service in accordance with a determined operation mode of the network node (see Par. [0096-0100] and Fig. 4, steps 408 and 420).

Regarding claim 20, as recited in claim 19, Ejzak discloses the node comprising means for storing (HSS 142), in particular a lookup table, network node identifiers and related indications, indicating whether the identified network nodes are local or remote to the network node (see Pars. [0048-52]).

Allowable Subject Matter

3. Claims 5-8 and 12-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, for example, combining claims 13 and 14; and adding the combined limitations into claim 1 and 19.

CONCLUSION

Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kwasi Karikari whose telephone number is 571-272-8566. The examiner can normally be reached on M-T (9am - 7pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Appiah can be reached on 571-272-7904. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8566. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Kwasi Karikari/
Patent Examiner: Art Unit 2617.

**/Charles N. Appiah/
Supervisory Patent Examiner, Art Unit 2617**